

McCARTER & ENGLISH, LLP

Four Gateway Center
100 Mulberry Street
Post Office Box 652
Newark, New Jersey 07101-0652
(973) 622-4444
Attorneys for Defendant
Zimmer, Inc.

EF-3747 (Edward J. Fanning, Jr., Esq.)

LAWRENCE SELINGER and
EMILIA SELINGER, his SPOUSE,

Plaintiffs,

-vs-

ZIMMER INC, ABC
CORPORATIONS (1-10), JOHN
DOE and MARY ROE
(1-10), fictitious names, persons
intended being of unknown names,

Defendants.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action No.

NOTICE OF REMOVAL

**TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

Defendant Zimmer, Inc. ("Zimmer"), pursuant to 28 U.S.C. §§ 1441 and 1446, notifies the Court of the removal of the above-captioned cause of action from the Superior Court of New Jersey, Law Division, Ocean County in which it is now pending. In support of this Notice of Removal, Zimmer states:

1. On or about October 11, 2007, Plaintiffs filed a Complaint with Jury Demand ("Complaint") in the Superior Court of New Jersey, Law Division, Ocean County, captioned *Lawrence Selinger and Emilia Selinger, his Spouse, Plaintiffs v. Zimmer Inc, ABC Corporations (1-10), John Doe and Mary Roe (1-10), fictitious names, persons intended being of*

unknown names, Defendants, Docket No. OCN L-3421-07. The Summons and Complaint were served on Zimmer on October 30, 2007. Pursuant to 28 U.S.C. § 1446(a), copies of all process and pleadings served upon Zimmer in the Superior Court are attached hereto as Exhibit A (Summons and Complaint). There were no other process, pleadings or orders served upon, or otherwise received by, the defendant herein.

2. This Notice of Removal is being filed within thirty (30) days after the simultaneous service of the Complaint and Summons on Zimmer and, therefore, is timely filed pursuant to 28 U.S.C. § 1446(b).

3. Plaintiffs Lawrence Selinger and Emilia Selinger are, on information and belief, citizens of the State of New Jersey. (Complaint.)

4. Zimmer is incorporated under the laws of the State of Delaware, with its principal place of business in Warsaw, Indiana.

5. ABC Corporations (1-10) and John Doe and Mary Roe (1-10) are fictitious parties whose citizenship is irrelevant to the determination of subject matter jurisdiction. *See* 28 U.S.C. § 1441(a) ("For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.").

6. This is a medical implant product liability action in which Plaintiffs allege that they were injured as a result of a product allegedly manufactured by Zimmer. Plaintiff Lawrence Selinger alleges that he suffered "pain, discomfort, loss of mobility, loss of enjoyment of life, and economic and pecuniary loss." (Complaint, First Count, ¶4.) Plaintiff Emilia Selinger also claims damages for loss of consortium. (Complaint, Fourth Count, ¶3.) Plaintiffs seek punitive damages, interests, and costs of suit. (Complaint, Second and Third Counts, Prayer.) Plaintiffs seek compensatory damages as the court deems proper. (Complaint, First and Fourth

Counts, Prayer.) The amount in controversy, therefore, exceeds Seventy-five Thousand Dollars (\$75,000), exclusive of interest and costs.

7. Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction over this action by reason of diversity of citizenship and an amount in controversy which exceeds the sum or value of Seventy Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

8. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(a) which allows for the removal of any civil action brought in a State court of which the District Courts of the United States have original jurisdiction, by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

9. Zimmer has provided notice of the removal of this action to Plaintiffs and to the Superior Court of New Jersey, Law Division, Ocean County, by filing a "Notice to Clerk of Superior Court of Filing of Notice of Removal" together with a copy of this "Notice of Removal", in the Superior Court of New Jersey, Law Division, Ocean County, and by serving copies of the same on Plaintiffs pursuant to 28 U.S.C. § 1446(d).

WHEREFORE, Zimmer respectfully requests this action be removed to this Court.

DATED: November 27, 2007

McCARTER & ENGLISH, LLP

s/ Edward J. Fanning, Jr.

By: _____

Edward J. Fanning, Jr., Esq.
A Member of the Firm

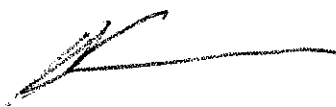
ATTORNEYS FOR DEFENDANT
ZIMMER, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that on the 27th day of November, 2007, a copy of the foregoing Notice of Removal of Action was served on the following counsel of record by first-class mail, postage prepaid:

Dennis A. Drazin
DRAZIN AND WARSHAW, ESQS.
25 Reckless Place
Red Bank, NJ 07701

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.



Nace Naumoski, Esq.

EXHIBIT A

LMS Packing Slip

RECEIVED
OCT 31 2007
LEGAL DEPARTMENT

Package ID: 860213

Tracking Number: 944762589959
Package Recipient: David Royster
Receipient Company: Zimmer Holdings, Inc.
Receipient Address: 345 East Main Street Warsaw IN 46580
USA
Phone Number: 5742676131

Package Contents:

Transmittal Number	Case Number	Title of Action
5416695	OCN-L-3421-07	Lawrence Selinger vs. Zimmer Inc.



CORPORATION SERVICE COMPANY*

Notice of Service of Process

MIW / ALL
Transmittal Number: 5416695
Date Processed: 10/30/2007

Primary Contact: David Royster
Zimmer Holdings, Inc.
345 East Main Street
Warsaw, IN 46580

Copy of transmittal only provided to: Chad Phipps

Entity:	Zimmer, Inc. Entity ID Number 2451831
Entity Served:	Zimmer Inc.
Title of Action:	Lawrence Selinger vs. Zimmer Inc.
Document(s) Type:	Summons/Complaint
Nature of Action:	Product Liability
Court:	Monmouth County Superior Court, New Jersey
Case Number:	OCN-L-3421-07
Jurisdiction Served:	Indiana
Date Served on CSC:	10/30/2007
Answer or Appearance Due:	35 Days
Originally Served On:	CSC
How Served:	Personal Service
Plaintiff's Attorney:	Dennis A. Drazil 908-747-3730

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2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

Affordable Process Service, Inc.

8605 Allisonville Road, Room 272, Indianapolis, IN, 46250-1552, (317) 776-0044 , (317) 776-1144Fax

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19662

Recipient: Zimmer Inc.

AND CUMMINS INC.

Serving Officer: Steve Ferguson

Date:

Time:

**Corporation Service Company,
251 E. Ohio Street #300, Indianapolis, IN 46204**

Method of Service:

SUBSTITUTE

DILIGENT ATTEMPTS

Dates & Times:

(Sub-Serves Only)

Person Accepting Service:

Clair

DOB/Age:

Relationship to Intended Recipient:

If this is a place of EMPLOYMENT it must be personally served!!

CALL, E-MAIL, or FAX w/details before placing affidavit in the mail.



DRAZIN & WARSHAW, P.C.
 25 Reckless Place
 Red Bank, NJ 07701
 (732) 747-3730
 Attorneys for Plaintiff
 DAD/ez

<p>LAWRENCE SELINGER and EMILIA SELINGER his SPOUSE,</p> <p style="text-align: center;">Plaintiffs</p> <p>v.</p> <p>ZIMMER INC, ABC CORPORATIONS (1-10), JOHN DOE and MARY ROE 1-10), fictitious names, persons intended being of unknown names,</p> <p style="text-align: center;">Defendants</p>	<p>SUPERIOR COURT OF NEW JERSEY LAW DIVISION: MONMOUTH COUNTY</p> <p>DOCKET NO.: OCN-L-3421-07</p> <p style="text-align: center;">Civil Action</p> <p style="text-align: center;">SUMMONS</p>
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From the State of New Jersey, To The Defendant(s) Named Above:

ZIMMER, INC.

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, NJ 08625. A *filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Donald F. Phelan

DONALD F. PHELAN
Clark of the Superior Court

Name of Defendant to be Served: Zimmer Inc.
Address for Service: P.O. Box 708
1800 West Center Street
Warsaw, Indiana 46581-0708

\$135.00 FOR CHANCERY DIVISION CASES OR \$135.00 FOR LAW DIVISION CASES.

NO. 342 P. 7/8

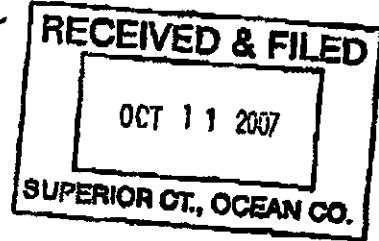
DRAZIN WARSHAW

OCT. 25. 2007 3:32PM

ATLANTIC COUNTY: Deputy Clerk of the Superior Court Civil Division, Direct Filing Atlantic County Civil Court Bldg. First Floor 1201 Bacharach Boulevard Atlantic City, NJ 08401 (609) 345-6700 LAWYER REFERRAL (609) 345-9444 LEGAL SERVICES (609) 345-4800	CUMBERLAND COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Cumberland County Courthouse Broad & Fayette Streets P.O. Box 616 Bridgeton, NJ 08308 (856) 451-0000 LAWYER REFERRAL (856) 693-6207 LEGAL SERVICES (856) 451-0003	MERCER COUNTY: Deputy Clerk of the Superior Court Local Filing Office, Courthouse 175 South Broad St., P.O. Box 8068 Trenton, NJ 08650 (609) 578-7885 LAWYER REFERRAL (609) 585-4200 LEGAL SERVICES (609) 695-6243	SALEM COUNTY: Deputy Clerk of the Superior Court Salem County Courthouse 22 Market Street P.O. Box 18 Salem, NJ 08079 (856) 835-7810 LAWYER REFERRAL (856) 835-5583 LEGAL SERVICES (856) 451-0003
BERGEN COUNTY: Deputy Clerk of the Superior Court Case Processing Section, Room 119 Bergen County Justice Center 10 Main Street Hackensack, NJ 07601-0753 (201) 345-0500 LAWYER REFERRAL (201) 485-0044 LEGAL SERVICES (201) 487-2182	ESSEX COUNTY: Deputy Clerk of the Superior Court 50 West Market Street, Room 181 Newark, NJ 07102 (973) 622-6700 LAWYER REFERRAL (973) 622-6207 LEGAL SERVICES (973) 624-4500	MIDDLESEX COUNTY: Deputy Clerk of the Superior Court Middlesex Administration Building, 7th Floor 1 Kennedy Square, P.O. Box 2653 New Brunswick, NJ 08903-2653 (732) 981-8200 LAWYER REFERRAL (732) 988-0653 LEGAL SERVICES (732) 249-7500	SOMERSET COUNTY: Deputy Clerk of the Superior Court Civil Division Office New Courthouse, 3rd Floor P.O. Box 5000 Somerville, NJ 08876 (908) 221-7000 LAWYER REFERRAL (908) 695-2222 LEGAL SERVICES (908) 221-6840
BURLINGTON COUNTY: Deputy Clerk of the Superior Court Central Processing Office Admin. Judicial Innals Burlington County Court Facility, First Floor 49 Rancocas Road Mount Holly, NJ 08060 (609) 518-2500 LAWYER REFERRAL (609) 261-4562 LEGAL SERVICES (609) 261-1058	GLOUCESTER COUNTY: Deputy Clerk of the Superior Court Civil Case Management Office Admin. Innals First Floor, Court House 1 North Broad Street, P.O. Box 129 Woodbury, NJ 08096 (856) 943-8300 LAWYER REFERRAL (856) 943-4589 LEGAL SERVICES (856) 943-5850	MONMOUTH COUNTY: Deputy Clerk of the Superior Court Monmouth County Courthouse 71 Monument Park P.O. Box 1269 Freehold, NJ 07728-1269 (732) 431-7872 LAWYER REFERRAL (732) 431-5544 LEGAL SERVICES (732) 806-0024	SUSSEX COUNTY: Deputy Clerk of the Superior Court Sussex County Judicial Center 48-67 High Street Newton, NJ 07960 (973) 570-0576 LAWYER REFERRAL (973) 257-5882 LEGAL SERVICES (973) 883-7400
CAMDEN COUNTY: Deputy Clerk of the Superior Court Civil Processing Office First Floor, Hall of Records 101 South Fifth Street Camden, NJ 08108 (856) 825-5000 LAWYER REFERRAL (856) 964-4520 LEGAL SERVICES (856) 964-2018	HUDSON COUNTY: Deputy Clerk of the Superior Court Civil Records Dept. Brennan Courthouse, First Floor 683 Newark Avenue Jersey City, NJ 07306 (201) 725-6000 LAWYER REFERRAL (201) 798-8787 LEGAL SERVICES (201) 792-6348	MORRIS COUNTY: Deputy Clerk of the Superior Court Civil Division 30 Schuyler Place, P.O. Box 910 Morristown, NJ 07960-0910 (973) 666-4110 LAWYER REFERRAL (973) 267-6882 LEGAL SERVICES (973) 265-8911	UNION COUNTY: Deputy Clerk of the Superior Court Union County Courthouse 3 Broad Street, First Floor Elizabeth, NJ 07201-0078 (908) 689-4100 LAWYER REFERRAL (908) 858-4715 LEGAL SERVICES (908) 824-4340
CAPE MAY COUNTY: Deputy Clerk of the Superior Court Cape May County Courthouse 9 North Main Street Box DN-209 Cape May Court House, NJ 08210 (609) 465-1000 LAWYER REFERRAL (609) 453-0512 LEGAL SERVICES (609) 455-3001	HUNTERDON COUNTY: Deputy Clerk of the Superior Court Civil Division 65 Park Avenue Flemington, NJ 08822 (609) 783-1589 LAWYER REFERRAL (609) 785-2511 LEGAL SERVICES (609) 782-7779	OCEAN COUNTY: Deputy Clerk of the Superior Court Courthouse, Room 119 118 Washington Street Toms River, NJ 08754 (732) 244-2121 LAWYER REFERRAL (732) 240-3666 LEGAL SERVICES (732) 241-8721	WARREN COUNTY: Deputy Clerk of the Superior Court Civil Division Office Warren County Courthouse 413 Second Street Belvidere, NJ 07822-1500 (908) 476-4161 LAWYER REFERRAL (973) 267-5882 LEGAL SERVICES (908) 415-2010
		PASSAIC COUNTY: Deputy Clerk of the Superior Court Civil Division Passaic County Court House 77 Hamilton Street Paterson, NJ 07655 (973) 247-3000 LAWYER REFERRAL (973) 278-9223 LEGAL SERVICES (973) 245-7171	

DRAZIN AND WARSHAW, ESQS.
25 Reckless Place
Red Bank, New Jersey 07701
(908) 747-3730
Attorneys for Plaintiffs

48287



LAWRENCE SELINGER and
EMILIA SELINGER His SPOUSE

Plaintiffs

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: OCEAN COUNTY

DOCKET NO: **02NL-0421-07**

CIVIL ACTION

-vs-

COMPLAINT WITH JURY DEMAND

ZIMMER INC, ABC
CORPORATIONS (1-10), JOHN:
DOE and MARY ROE
(1-10), fictitious names, persons
intended being of unknown names,

Defendant

JUDGE _____
 CLERK MO CA _____
 COURT # _____
 COURT \$ _____
 DATE _____

Plaintiffs, Lawrence Selinger and Emilia Selinger, residing at 4 Twilight Drive, Brick, New Jersey, by way of Complaint against the defendant, state:

FIRST COUNT

1. Defendant Zimmer Inc. and ABC Corporations (1-10), were engaged in the design, manufacture, sale, and distribution of knee replacement systems, including the particular system and components specified in Paragraph 2, below.

2. On August 9, 2004, the plaintiff underwent right total knee replacement surgery performed by Alfred Tria, M.D. at Saint Peter's University Hospital in New Brunswick, New Jersey, during which Dr. Tria implanted a knee replacement system designed, manufactured, sold, and distributed by the defendants, made up of the following specific components:

Stemmed Tibial Component, Size 7, Product Code 5980-57-01, Lot 60148240:

Femoral Component, Product Code 5964-15-02, Lot 60141745;

LPS-Flex Articular Surface Size B F 10mm height Product Code 5960-51-10, Lot 60005138;

All Ploy Patella Standard Size 32mm dia. 8.5mm thickness, Product Code 5972-65-32, Lot 60166060;

Zimmer Bone Cement Dough-Type Radiopaque, 40 G Polymer Powder/20cc Monomer Liquid, Product Code 1102-12, Lot 60175364.

3. The knee replacement system and components described in Paragraph 2, above, was not reasonably fit, suitable or safe for its intended purpose because it: a. deviated from the design specifications, formulae, or performance standards of the manufacturer or from otherwise identical units manufactured to the same manufacturing specifications or formulae, or b. failed to contain adequate warnings or instructions, or c. was designed in a defective manner.

4. As a proximate result of the defect or defects in the knee replacement system and components described in Paragraph 2, above, the plaintiff suffered pain, discomfort, loss of mobility, loss of enjoyment of life, and economic and pecuniary loss, and ultimately had to undergo additional knee surgery on September 12, 2006 and other procedures and modes of treatment.

WHEREFORE Plaintiff demands judgment against defendant Zimmer Inc. and ABC Corporations (1-10) for compensatory damages, interests, and costs of suit.

SECOND COUNT

1. Plaintiff repeats the allegations of Count 1, Paragraphs 1 through 4.

2. The harm suffered by the Plaintiff was the result of the product manufacturer's or seller's acts or omissions, and such acts or omissions were actuated by actual malice or accompanied by a wanton and willful disregard of the safety of product users, consumers, or others who foreseeably might be harmed by the product by inappropriately and misleadingly promoting

the product.

WHEREFORE Plaintiff demands judgment against defendant Zimmer Inc. and ABC Corporations (1-10) for punitive damages, interests, and costs of suit.

THIRD COUNT

1. Plaintiff repeats the allegations of Count 1, Paragraphs 1 through 4.
2. The harm suffered by the Plaintiff was the result of the product manufacturer's or seller's acts or omissions, and such acts or omissions were actuated by actual malice or accompanied by a wanton and willful disregard of the safety of product users, consumers, or others who foreseeably might be harmed by the product by inappropriately and misleadingly promoting the product by concealing known defects in the product.

WHEREFORE Plaintiff demands judgment against defendant Zimmer Inc. and ABC Corporations (1-10) for punitive damages, interests, and costs of suit.

FOURTH COUNT

1. Plaintiff Emilia Selinger repeats the allegations of Count 1, Paragraphs 1 through 4.
2. Emilia Selinger was at all times mentioned herein and is currently the lawful wife of Plaintiff.
3. As a direct and proximate result of the conduct of Defendants as set forth above and of the injuries and damages suffered by her husband, Mrs. Selinger suffered and will continue to suffer the loss of care, services, and consortium of her husband.

WHEREFORE Plaintiff Emilia Selinger demands judgment against defendant Zimmer Inc. and ABC Corporations (1-10) for compensatory damages, interests, and costs of suit.

JURY DEMAND

PLEASE TAKE NOTICE that plaintiff hereby demands a trial by jury as to all issues.

TRIAL COUNSEL DESIGNATION

Pursuant to Rule 4:25-5, trial counsel in the within matter is DENNIS A. DRAZIN.

CERTIFICATION

Pursuant to R.4:5-1, it is hereby stated that the matter in controversy is not the subject of any other action pending in any

other court or of a pending arbitration proceeding to the best of my knowledge, information and belief.

Also, to the best of my knowledge, information and belief, no other action or arbitration proceeding is contemplated. Further,

other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action.

In addition, I recognize the continuing obligation of each party to file and serve on all parties and the Court an Amended Certification if there is a change in the facts stated in this original Certification.

I hereby certify that the foregoing statements made by me are true. I understand that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

DRAZIN & WARSHAW
Attorneys for Plaintiff

By: 

DENNIS A. DRAZIN

Dated: October 5, 2007

LEGAL DEPARTMENT

OCT 31 2007

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Zimmer Holdings, Inc.
David Royster
345 East Main Street

Warsaw, IN 46580

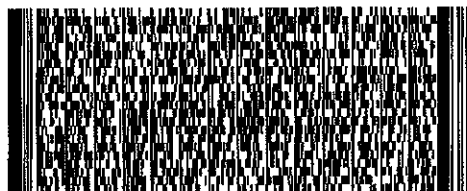
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